

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

JOSEPH F. HUTCHISON, et al.	:	CASE NO. C-1-01-789
Plaintiffs	:	(Judge Beckwith)
v.	:	PLAINTIFFS' OBJECTION
	:	TO BILL OF COSTS
FIFTH THIRD BANCORP.	:	
Defendant	:	

Come now the Plaintiffs, by counsel, pursuant to Fed. Rule Civ. Pro. 54(d) and submit the following memorandum contra Defendant's Bill of Costs (Doc. 94), First Amended Bill of Costs (Doc. 103) and Second Amended Bill of Costs (Doc. 109). This objection and Memorandum Contra are also being submitted in accordance with the Notice Upon Filing of Bill of Costs issued on January 8, 2008. (Doc. 120)

MEMORANDUM

Defendant, Fifth Third Bancorp, has submitted an original and two amended bill of costs. (Docs. 94, 103 & 109) Defendant's Second Amended Bill of Costs incorporates the costs sought to be taxed against Plaintiffs in the original and First Amended Bill of Costs. Therefore this Memorandum will address only the Second Amended Bill of Costs, which seeks costs totaling \$10,415.18. (Doc. 109)

First, Plaintiffs oppose any taxation of costs on three grounds: (1) Plaintiffs initiated and pursued their claims against Defendant in good faith; (2) This litigation presented close and difficult issues such that it was difficult to discern the law of the case; and (3) Plaintiffs brought this action to assert the interests of all beneficiaries (67 beneficiaries in all) of an Employee Stock Ownership Plan ("*ESOP*"), whose assets

totaling approximately \$467,000 in value were taken by Defendant without compensation. See White & White, Inc. v. American Hospital Supply Corporation, 786 F.2d 728 (6th Cir. 1986).

Secondly, Plaintiffs object to the \$7,000 in copying charges submitted by Defendant. Such expenses are not ordinarily taxed as costs and do not come within this Court's guidelines.

Based upon the foregoing, Plaintiffs request that the Clerk reject Defendant's Seconded Amended Bill of Costs in whole or in part.

Respectfully submitted,

/s/Richard G. Meyer
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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing memorandum in support of motion for class certification has been served via CM/ECF on this 29th day of January, 2008, upon Patrick F. Fischer and Sue A. Erhart of Keating, Muething & Klekamp, P.L.L.

/s/ Richard G. Meyer
Richard G. Meyer